

Eden District Council

**Planning Committee Agenda**  
**Committee Date: 3 June 2021**

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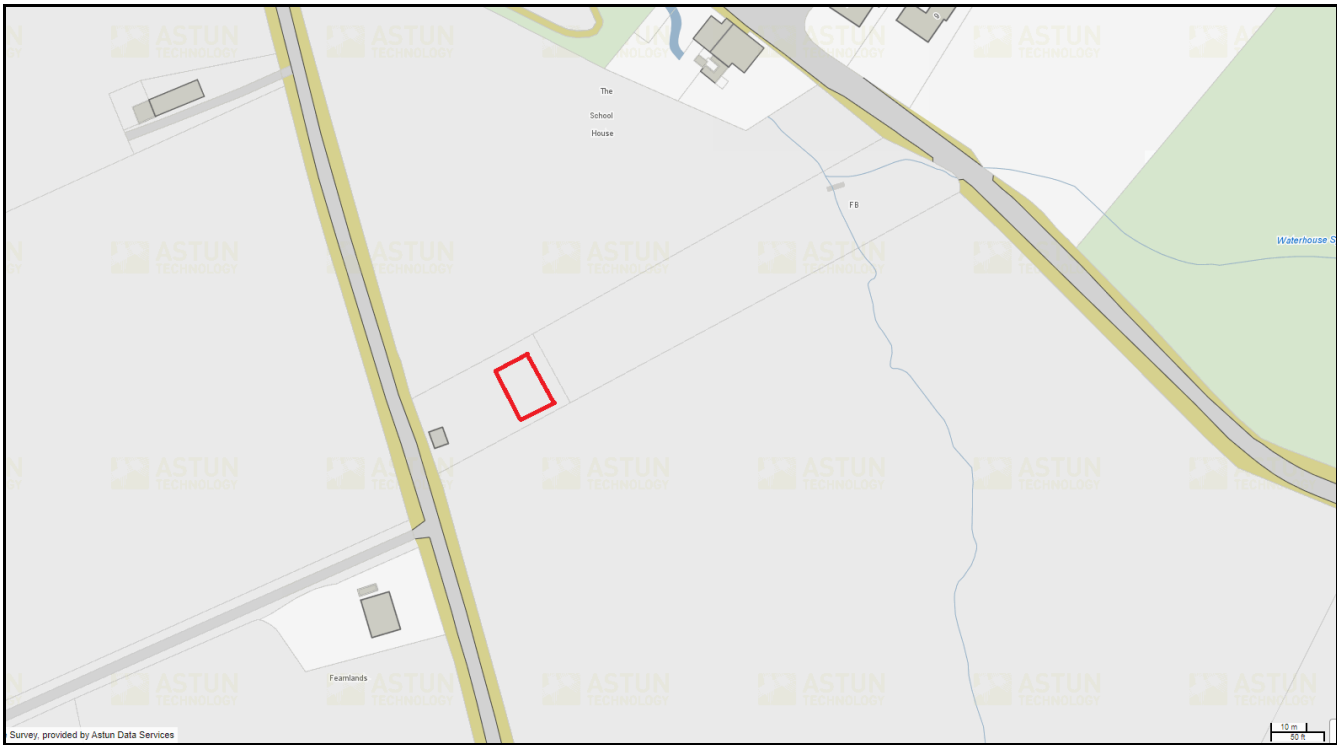
<b>Item No</b>	<b>Application Details</b>	<b>Officer Recommendation</b>
<b>1</b>	<b>Planning Application No: 21/0073</b> Outline application for self-build dwelling, with all matters reserved Land at Ainstable, Ainstable Mrs Angela Bainbridge	Recommended to:  <p style="text-align: center;"><b>REFUSE</b> With Reasons</p>

Date of Committee: 20 May 2021

<b>Planning Application No:</b>	21/0073	<b>Date Received:</b>	12 February 2021
<b>OS Grid Ref:</b>	NY 353192, 546010	<b>Expiry Date:</b>	9 April 2020 (time extension still to be agreed with applicant)
<b>Parish:</b>	Ainstable Parish	<b>Ward:</b>	Kirkoswald
<b>Application Type:</b>	Outline Permission		
<b>Proposal:</b>	Outline application for self-build dwelling, with all matters reserved		
<b>Location:</b>	Land at Ainstable, Ainstable		
<b>Applicant:</b>	Mrs Angela Bainbridge		
<b>Agent:</b>	N/A		
<b>Case Officer:</b>	Andrew Clement		
<b>Reason for Referral:</b>	Proposal has been called in on material planning grounds by the support of the Parish Council.		

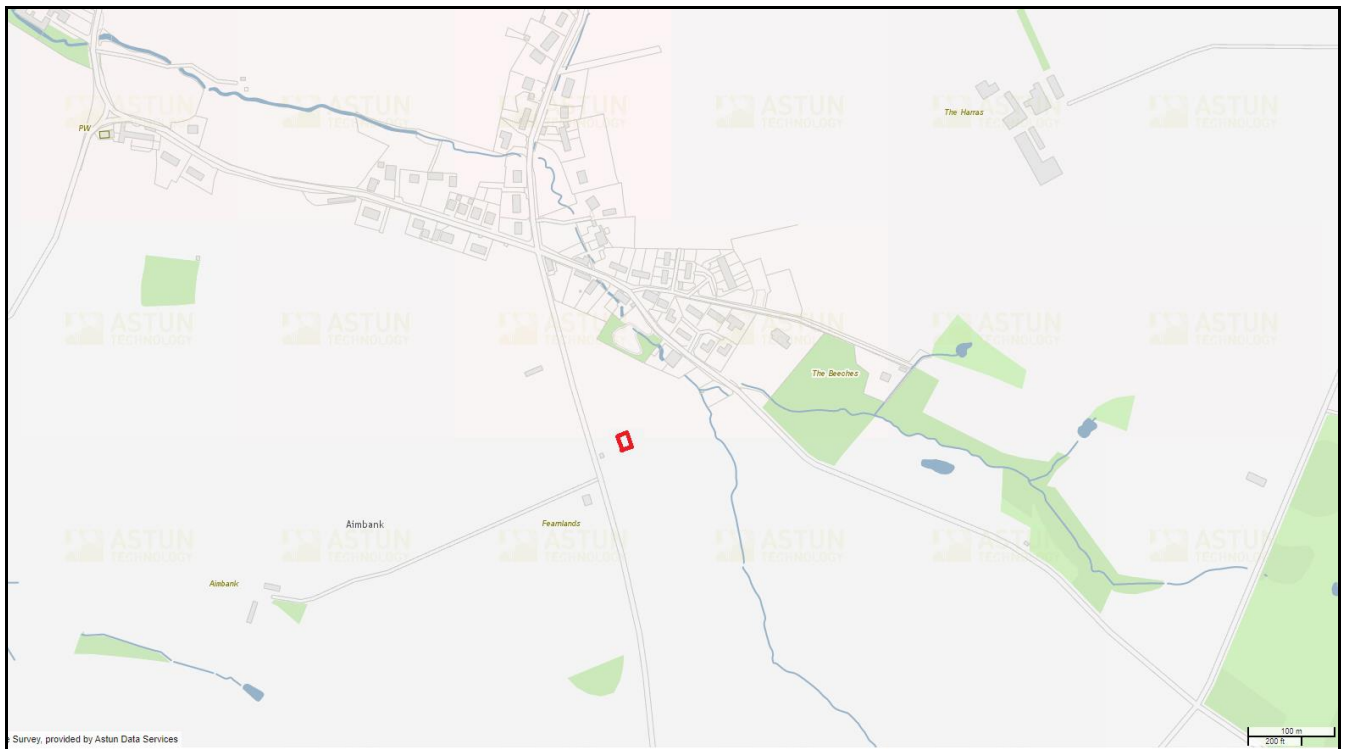
Planning Application Item 1

REPORT FOR DEBATE



# Planning Application Item 1

## REPORT FOR DEBATE



## 1. Recommendation

It is recommended that outline permission be **REFUSED** for the following reasons:

1. The proposed dwellinghouse is located outside any identified existing settlement or a coherent group of three or more dwellings, in an 'Other Rural Area', and the proposal fails to meet any of the exemptions for dwellinghouses in such locations. The proposal is contrary to the spatial strategy of the local plan, which details where the Council expects the focus for residential, employment and commercial provision. The proposal fails to accord with Policies LS1, HS1 and HS2 of the Eden Local Plan 2014-32, and is contrary to Section 5 of the National Planning Policy Framework 2018, in particular paragraph 79.
2. The large scale domestic curtilage area, prominent elevated location of the sought dwellinghouse, and associated domestic paraphernalia, would cumulatively appear incongruent and conspicuous due to the sloping topography immediately adjacent to agricultural land. The domestication of this entire plot would harm the surrounding rural landscape and detract from the setting of the small rural village of Ainstable. The proposal fails to protect or enhance the district's distinctive rural landscape, and conflicts with the existing settlement form, contrary to Policies DEV5 and ENV2 of the of the Eden Local Plan 2014-32 and contrary to Sections 12 and 15 of the National Planning Policy Framework 2018, in particular paragraphs 127 and 170.
3. The proposal has failed to demonstrate a suitable site vehicular access and visibility splays necessary to demonstrate that the proposal would have an acceptable impact upon highway safety and local traffic conditions. As such, the proposal is contrary to Policy DEV3 of the of the Eden Local Plan 2014-32 and Section 9 of the National Planning Policy Framework 2018, in particular paragraphs 108 and 109.

## 2. Proposal and Site Description

### 2.1 Proposal

- 2.1.1 This application seeks outline permission for the erection of a single dwellinghouse within the site, with all matters reserved. The proposed dwellinghouse is sought as a self-build property, as legally defined in the Self Build and Custom Housebuilding Act 2015, which refers to the mechanism through which housing is designed and built, and it is noted that the applicant's intention is to live in the proposed dwellinghouse as the initial owner and occupants. The application form indicates that the dwellinghouse is to be two storeys, containing 4 bedrooms with a circa 160sq.m footprint, benefitting from a detached double garage, sited towards the elevated western end of the site with white rendered and sandstone faced walls and uPVC grey framed windows. However, it should be noted that as an outline proposal with all matters reserved, the site plan and details of the dwelling are indicative, and the outline application covers the principle of developing a residential property in this location and its vehicular access point.

### 2.2 Site Description

- 2.2.1 The site that forms the subject of this application is land that sits outside of the village of Ainstable, located to the south of the village along the rural C1042 road. Small tributaries of Powsy Sike and Waterhouse Syke run through the eastern end of the long site, and whilst this is in Environment Agency designated Flood Zone 1, the land

adjacent to these streams is acknowledge to be at medium and high risk of surface water flooding in the Eden Strategic Flood Risk Assessment.

- 2.2.2 The site is currently used as agricultural land, with a 131.4sq.m agricultural building and 432sq.m hardstanding recently approved at the site through planning permission 20/0722.
- 2.2.3 The site is within a mineral consultation area. However, there are no further planning constraints considered relevant to the determination of this planning application.

### 3. Consultees

#### 3.1 Statutory Consultees

Consultee	Response
Highway Authority	<b>Inadequate information</b> to satisfy acceptability of access, visibility splays and effect on the highway network and public safety.
Lead Local Flood Authority	No adverse comment

#### 3.2 Discretionary Consultees

Consultee	Response
United Utilities	No objection subject to surface water drainage strategy according with the hierarchy of drainage options.
Housing	The site is outside of Ainstable village within an 'other rural area', where all units should be affordable housing.

### 4. Parish/Town Council Response

Please Tick as Appropriate				
Parish Council	Object	Support	No Response	No View Expressed
Ainstable		✓		

- 4.1 A response was received on the 18 March 2021 advising they **SUPPORT** the proposal, as the parish council is very keen to support local families and existing rural businesses staying in the parish, despite concerns regarding the location of the proposed house.

- 4.2 The full response from the Parish Council is as follows:

*'Ainstable Parish Council is very keen to support local families staying in the parish, and has met with and spoken to the applicant regarding this proposed development. The applicant was asked to explain their ideas at a parish council meeting on Tuesday 16 March, and was able to satisfy the questions from councillors.*

*The parish council does though have some concerns on the location of the house within the parcel of land, and discussed the position of house relative to the shed and the slope. The parish council recognises the need for the shed to be located at the top of the parcel of land to allow for vehicles and for deliveries from larger trucks. We appreciate the need for a turning and parking space between the shed and the house,*

*but would prefer to see the house element of this steading towards the top of the site and as close to the existing fence across the site as is practical.*

*The parish council has noted that the site is beyond the edge of the village, and could be considered to be in open countryside. We would therefore suggest that this application would not constitute fill-in or rounding-off, but is still acceptable to the parish council.*

*Ainstable Parish Council is happy to support this application. This development will provide a home for a local family, and keep an existing rural business operating within the parish, with little to no impact on any neighbouring property. We were happy with the responses from the applicant regarding the position of the proposed house, and with their plans to reinstate and improve the existing hedges surrounding the site’.*

## 5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 27 February 2021.

<b>No of Neighbours Consulted</b>	6	<b>No of letters of support</b>	0
<b>No of Representations Received</b>	0	<b>No of neutral representations</b>	0
<b>No of objection letters</b>	0		

- 5.2 No observations received through the public/neighbour consultation process.

## 6. Relevant Planning History

- 6.1 Planning history relevant to the application site:

<b>Application No</b>	<b>Description</b>	<b>Outcome</b>
20/0722	Replacement agricultural building and associated hardstanding.	Approved 2 November 2020
21/5011	Alleged erection of unauthorised structure.	Ongoing

- 6.2 Planning history relevant to adjacent land:

<b>Application No</b>	<b>Description</b>	<b>Outcome</b>
88/0715	Bungalow	Refused

## 7. Policy Context

### 7.1 Development Plan

#### Eden Local Plan (2014-2032)

- LS1 – Locational Strategy
- LS2 – Housing Targets and Distribution
- DEV1 – General Approach to New Development
- DEV2 – Water Management and Flood Risk
- DEV5 – Design of New Development
- HS4 – Housing Type and Mix
- ENV1 – Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity

- ENV2 – Protection and Enhancements of Landscapes and Trees
- ENV8 – Land Contamination
- Appendix 5: Policy HS1 - Local Connection Criteria - Affordable Housing Only
- Appendix 6: Policy HS2 - Local Connection Criteria - Housing in the Smaller Villages and Hamlets listed in Policy LS1

**Supplementary Planning Documents:**

- Housing (2010 and 2020)

**7.2 Other Material Considerations**

**National Planning Policy Framework:**

- Chapter 2: Achieving Sustainable Development
- Chapter 4: Decision making
- Chapter 5: Delivering a sufficient supply of homes
- Chapter 6: Building a strong, competitive economy
- Chapter 9: Promoting sustainable transport
- Chapter 12: Achieving well-designed places
- Chapter 14: Meeting the challenge of climate change, flooding and coastal change
- Chapter 15: Conserving and enhancing the natural environment

**7.3 National Planning Practice Guidance (NPPG)**

**7.4 National Design Guide (2019)**

**7.5 The Self-build and Custom Housebuilding Act 2015**

7.6 The policies and guidance detailed above are the most relevant policies relating to this application.

**8. Planning Assessment**

**8.1 Key/Main Planning Issues**

- Principle
- Self and Custom Build
- Scale, Landscape and Visual Impacts
- Highway and Parking
- Infrastructure and Drainage
- Heritage Impacts
- Residential Amenity
- Ecology and Trees
- Land Contamination and Drainage

**8.2 Principle**

8.2.1 Policy LS1 of the Eden Local Plan sets out the hierarchy of settlements where development should be focused in the most sustainable locations, principally being the Market Towns and Key Hubs, where the Council expects the focus for residential, employment and commercial provision. Within smaller villages and hamlets, development is restricted to infill and modest rounding sites, which fill a modest gap between existing buildings within the settlement to form a continuous frontage, or a modest extension beyond the limit of the settlement to a logical, defensible boundary. To be considered as "rounding-off", a site must be enclosed by existing built

development and a strong physical feature. Beyond all these recognised settlements, in 'Other Rural Areas', development is restricted to the re-use of traditional buildings, and affordable housing only as an exception to policy where this within a coherent group of three or more existing dwellings in a location suitable for affordable housing development.

- 8.2.2 Policy LS2 of the Eden Local Plan sets out future development rates in town and villages to achieve the overall annual housing target.
- 8.2.3 Policy HS2 of the Eden Local Plan aims to encourage people to meet their own modest housing needs locally in smaller villages and hamlets where development infills or rounds off the current settlement pattern, and occupants must have a strong local connection when developed on greenfield sites.
- 8.2.4 Policy DEV1 of the Eden Local Plan advises that the Council will always work proactively with applicants to find solutions which mean the proposals can be approved wherever possible, and to secure developments that improves economic, social and environmental conditions in the area.
- 8.2.5 The application site sought for development is an agricultural field, with the proposed dwellinghouse located circa 100 metres from the nearest dwellinghouse within the small village of Ainstable. The site is beyond the limit of this village within the open countryside (defined as 'other rural area' within the Eden Local Plan), and does not form an infill nor rounding off site as required by Policies LS1 and HS2, and described in further detail in the Housing SPD 2020.
- 8.2.6 It is acknowledged that the development would be for self-build/custom build housing, and the Self-build and Custom Housebuilding Act 2015 places a duty on Authorities to grant enough suitable permissions. The local plan direct such development to smaller villages/hamlets through Policies LS1 and HS2, with policy LS2 identifying that housing in such locations has a negative residual requirement, as the number of permitted or under construction properties exceeded the identified target figure, despite a small site permission discounted to 75% to allow for non-implementation. Furthermore, in terms of site within Ainstable Parish rather than the wider district, it is noted that there is a site currently advertised for sale and available to purchase already benefitting from outline planning consent for such a development, within the small village of Ruckcroft, just over one mile south of the application site. The requirement to provide self-build developments does not outweigh fundamental spatial planning policies directing where the Council will accept residential development, particularly given the identified provision of permitted and under construction sites in smaller villages/hamlets identified in Policy LS2.
- 8.2.7 Whilst the Local Plan and Policies LS1 and HS1 provide exemptions for affordable housing in 'Other Rural Areas', this exemption only applies to sites within a coherent group of three or more existing dwellings, which does not apply to this proposal, and there is no indication that the sought 4 bedroom, 160sq.m footprint dwellinghouse is to be affordable housing, nor that the intended occupants would be applicable for affordable housing. Therefore, this exemption does not apply to this proposal. Paragraph 79 of the NPPF states that planning policies and decisions should avoid the development of isolated homes, and whilst there are further exceptions in this national policy for essential rural workers, heritage assets, exceptional quality and existing built form, none of these have been evidenced as applicable to this sought new dwellinghouse on agricultural land through this proposal.



8.2.8 The proposed dwellinghouse at this application site is considered to be contrary to the locational strategy for development within the local plan, and conflicts with the requirements of the NPPF to avoid isolated homes, without meeting any of the limited exemptions for housing in such locations. The locations strategy for development is fundamental to achieving sustainable development, directing new development and housing to locations with existing services, facilities and employment, so that these are sustainably accessible within these settlements. Whilst it is appreciated that Ainstable Parish Council encourages the delivery of new housing within the parish, such development should be directed to infill and rounding off sites within the villages/hamlets, or alternatively the Parish may wish to progress a Neighbourhood Plan identifying sites suitable for local connection occupancy housing in Ainstable/Croglin/Newbiggin. However, a plan-led approach is taken to the lawful determination of planning applications, with NPPF paragraph 15 stating that *'The planning system should be genuinely plan-led'*. Due to the application site location outside of any recognised town, key hub, village or hamlet, and the proposal being inapplicable to the exemptions to housing in such locations, the application is considered to be contrary to Policies LS1, HS1 and HS2 of the Local Plan, and Section 5 of the NPPF, in particular paragraph 79. The principle of development of a dwellinghouse in this location is considered to be unacceptable.

### **8.3 Self and Custom Build**

- 8.3.1 This proposal is for a Self-Build and Custom House build house. The Self-build and Custom Housebuilding Act 2015 places a duty on Authorities to grant enough suitable permissions on serviced plots to meet the need set out in the self-build register, for each year, within 3 years. Self-build and Custom build housing is defined as housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing.
- 8.3.2 Eden District Council has been able to demonstrate sufficient self-build permissions to meet the registered demand, since the end of the first register base period. The legislation requires that all authorities must have granted sufficient planning consents for enough serviced plots, which are suitable for self and custom build to meet the demand for the period (demand is measured by the number of people joining the Council's Self Build and Custom Build Housing Register).
- 8.3.3 Eden District Council granted planning permission for sufficient properties within the register base period which fulfil the requirements of self and custom build development. The latest figures reported on 30 October 2020 marks four years since the end of the first register base period. The legislation requires that all authorities must have granted sufficient planning consents for enough serviced plots, which are suitable for self and custom build to meet the demand from the register. Between the 1st April 2016 and the 30th October 2020, Eden District Council received 111 applicants for entry onto its register. In response to this demand, Eden District Council has granted planning permission for 163 confirmed self and custom build dwellings in the period 1 April 2016 to 30 October 2020. The Council has therefore, met and exceeded the requirements of the legislation by having sufficient self-build permissions to meet the registered demand for the preceding couple of years.
- 8.3.4 Whilst the requirement for providing self-build and custom build housing is acknowledged, such developments must be in accordance with the policies of the Local Plan as a whole. The requirement to provide self-build developments does not attract such overriding weight that it should outweigh fundamental spatial planning

policies directing where the Council will accept residential development. Furthermore, there is no evidence that there are sufficient numbers amongst those who have signed Eden's Self-build and Custom Build Register who would comply with the local connections criteria, which would be a requisite condition should the development be permitted.

- 8.3.5 The Council is supportive of self-build and custom build housing and will continue to meet the required self-build permissions and comply with the Self-Build and Custom Housebuilding Act 2015. Furthermore, the Council does consider that weight should be given to self or custom build proposals in line with National Requirements. The Council will not however, support self-build housing where it conflicts with its locational strategy or other policies.
- 8.3.6 However, in consideration of this specific application and that the Council has exceeded its requirements in relation to self and custom build development, the self and custom build nature of the proposal alone is insufficient to warrant a departure from the Eden Local Plan in this instance. Whilst weight is rightly afforded to the self and custom build nature of the proposal, in light of the above it is considered that only limited weight should be attached to the self-build and custom build requirements of the Council in the determination of this planning application, whereby the proposal does not comply with the Locational Strategy set out within Policy LS1 of the Eden Local Plan.
- 8.3.7 Furthermore, it is noted that the limited benefits of one single self and custom build dwelling in this specific isolated location (particularly given the Council are able to demonstrate they are meeting the requirements of the Self-build and Custom Housebuilding Act 2015) is not considered to overcome the fundamental policy conflict) and does not attract sufficient weight to outweigh the proposals clear lack of compliance with the Development Plan in the planning balance or justify a departure from the Special Strategies of the Eden Local Plan in this instance.

#### **8.4 Scale, Landscape and Visual Impacts**

- 8.4.1 Policy DEV5 of the Eden Local Plan requires that proposed development demonstrates that it shows clear understanding of the form and character of the District's built environment, complementing and enhancing the existing area, whilst ensuring that all new development 'protects and where possible enhances the district's distinctive rural landscape'.
- 8.4.2 Policy ENV2 of the Eden Local Plan requires proposals to take account of and complement natural elements, such as hedgerows, woodland and local topography and the tranquillity of the open countryside, and take account of and complement anthropogenic landscape elements, including settlement form, local architectural styles and building materials, and visually sensitive skylines, in accordance with the Cumbrian Landscape Assessment Toolkit.
- 8.4.3 Section 12 of the National Planning Policy Framework seeks to achieve well-designed places, with paragraph 127. stating that '*Planning policies and decisions should ensure that developments:*
- a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

- c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users<sup>46</sup>; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience’.*

8.4.4 Section 15 of the National Planning Policy Framework seeks to conserve and enhance the natural environment, with paragraph 170. stating that *‘Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) *protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) *maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate’.*

8.4.5 The proposal is an outline application, and therefore the site plans remain indicative, and whilst a 4 bedroom property over two storeys of 160sq.m footprint has been suggested in the application, this could be fully detailed and assessed at reserved matters stage. However, from this limited information, it is clear that the intention is for a large detached dwellinghouse. Given that Policy HS2 stipulates a gross internal floorspace limit of 150sq.m, this would likely be exceeded just through the ground floor of the indicative dwelling, notwithstanding that this mentions two-storey, potentially exceeding this limit twice over.

- 8.4.6 In relation to the details for assessment, the site location plan details a red edge development area across the entire 175 metre length of agricultural land between the C1042 and the C1039 roads, at a width of 23 metres, covering a site area of circa 4,000sq.m (just under an acre). This would effectively form the domestic curtilage of this site through the proposal, resulting in almost an acre of agricultural land forming domestic garden area of the sought dwellinghouse. Such a large domestic curtilage area would be excessive and disproportionate for the use of a single dwellinghouse and the curtilage areas associated with dwellinghouses within the village of Ainstable.
- 8.4.7 The site slopes significantly from west down to east, which would reduce the visual impact of a large two storey dwellinghouse from the perspective of the nearest C1042 road to the west, particularly as the dwelling would be beyond a recently permitted agricultural building, with deciduous boundary treatments offering some screening during warmer months. However, the proposed dwelling would still likely be visible from this western perspective, particularly as the indication is that the sought dwellinghouse would be larger than this recently permitted agricultural building, which measures 131.4sq.m footprint and is single storey at 5.2 metres tall.
- 8.4.8 Whilst the site land levels are at a lower topography than the C1042 public highway, the land is elevated above the C1039, and the proposed dwellinghouse and associated garden area and domestic paraphernalia would be very prominent from this perspective, elevated above the village Ainstable and affecting the setting of this rural village as approached from the south along this road. The domestication of this entire site as sought would be harmful to the rural setting of Ainstable, causing an unacceptable degree of harm to the rural countryside landscape through inappropriate and disproportionate scale of domestic use land, which would appear incongruent to the immediately adjacent and surrounding agricultural land. The long strip of land would intersect the two agricultural plots on either side to the north and south of this site, and the domestication of the entire plot and siting of a dwellinghouse both separated and isolated from the settlement whilst also being elevated above Ainstable topographically, would detract from the rural surroundings of this village. The proposal would fail to protect or enhance the district's distinctive rural landscape, and would be contrary to the existing settlement form, in conflict with Policies DEV5 and ENV2 of the Eden Local Plan and National Planning Policy Framework (NPPF) Sections 12 and 15, particularly paragraph 127 and 170.

## 8.5 Highway and Parking

- 8.5.1 Policy DEV3 of the Eden Local plan seeks to direct development to locations accessible by public transport, to ensure that provide safe and convenient access for pedestrians, cyclists and disabled people, whilst preventing development that would result in a severe impact in terms of road safety and increased traffic congestion. This position is supported by paragraph 109 of the National Planning Policy Framework (NPPF) which confirms, *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'* Paragraph 108 of the NPPF states that application for development should ensure that *'safe and suitable access to the site can be achieved for all users'*, in addition to promoting sustainable transport.
- 8.5.2 As part of the outline application with all matters reserved, the proposal seeks consent for the principle of developing a residential property in this location and its vehicular access point. The site benefits from an existing agricultural vehicular access point to

the C1042 to the west, and whilst this has not been specified as part of the proposal, it is assumed this access would be used by the proposed dwellinghouse given the absence of access to the eastern end of the site, and the presence of trees and streams flowing through this lower end of the site. The sought use, in addition to the recently approved agricultural building, would increase the number of vehicle movements through the existing access, and therefore it must be demonstrated that this access is suitable for the proposed development and associated vehicle movements.

- 8.5.3 The Highway Authority has raised an objection due to the lack of identification of the access to the site within the application, and omission of information regarding the visibility splays of an access nor any information submitted to demonstrate this would maintain highway and public safety. The site access to the C1042 is existing with a grass verge setback to the road surface, along a relatively straight the road. However, the C1042 is undulating, and given the 60mph speed of the road, the Highway Authority consultation response details that 215 metres visibility splay should be sought, from 2.4 metres back from the highway edge. Given the lack of information submitted as part of this application, combined with the fact the site location plan demonstrates that the applicant does not own the fields either side of the access to provide visibility splays, the proposal has failed to demonstrate that the site can be accessed whilst having an acceptable impact upon highway safety, contrary to Policy DEV3 and the NPPF, in particular paragraphs 108 and 109.
- 8.5.4 Other highway matters relating to suitable hardsurfacing, inward opening gates set within the site, and suitable off-street vehicle parking provision within the site could be provided and controlled through planning condition. However, the application has failed to demonstrate a safe and suitable access point, despite this being one of the few requirements for assessment of an outline planning application.

## **8.6 Infrastructure and Drainage**

- 8.6.1 Policy DEV2 of the Eden Local Plan requires proposals to meet the sequential approach to development in flood risk areas, preventing inappropriate development areas at risk of flooding, whilst adhering to the hierarchy of surface water management.
- 8.6.2 Whilst the site is physically isolated from the village of Ainstable, there is a dwellinghouse nearby on the opposite side of the C1042 road. No information has been submitted regarding access to mains electricity, water, and gas or sewerage infrastructure, however given the proximity to the existing property it is considered likely these could be provided either through mains connections or off-grid equivalents for foul drainage. Similarly, no information has been received regarding surface water drainage, other than the application form detailing this is to be a sustainable drainage system. Whilst no information to evidence the feasibility of such a sustainable drainage system at this site is available, given the scale of the permeable grassland site and watercourse running through this, it is highly likely a suitable scheme could be engineered, and this could be controlled through a reserved matters stage as advised in the United Utilities consultation response. Therefore, despite the omission of information for consideration, it is considered that these matters could be satisfactorily controlled at a reserved matters stage, compatible with Policy DEV2.

## **8.7 Heritage Impacts**

- 8.7.1 Within the Eden Local Plan, Policy ENV10 attaches great weight to the conservation and enhancement of the historic environment, heritage assets and their setting,

requiring all proposals for development to conserve or enhance the significance of heritage assets and their setting.

- 8.7.2 The nearest designated heritage assets are listed buildings over 0.5 miles from the application site, and as such a separation distance the proposal is considered to have no impact upon the setting of these national heritage assets. The Old Endowed School is considered to be the closest non-designated heritage asset to the application site, however this is primarily due to the architecture and age of the property as opposed to the surrounding land, and it is considered the proposal would cause no undue impact to the heritage setting of this property, in accordance with Policy ENV10.

## **8.8 Residential Amenity**

- 8.8.1 Within the Eden Local Plan, Policy DEV5, in part, seeks to ensure that all new development 'protects the amenity of existing residents and business occupiers'.
- 8.8.2 The nearest neighbouring dwellinghouse to the application site is located circa 40 metres away, and at such a separation distance a dwellinghouse within the site is unlikely to cause unacceptable overbearing, overshadowing or overlooking impacts. Whilst this would be assessed in great depth at reserved matters stage, a dwellinghouse could be designed to ensure no undue harm to neighbouring residential amenity, in accordance with Policy DEV5. There is limited information regarding the sought dwellinghouse, however the indicative information suggests ample size to achieve residential amenity standards to future occupants, and this could be assessed at reserved matters stage.

## **8.9 Ecology and Trees**

- 8.9.1 Within the Eden Local Plan, Policy ENV1 requires new development to avoid loss or deliver net gain in levels biodiversity and geodiversity, affording significant weight and the highest levels of protection to local, national and internationally important designated environmental sites.
- 8.9.2 Within the Eden Local Plan, Policy ENV2 requires proposals to take account of and complement natural elements, such as hedgerows, woodland and local topography.
- 8.9.3 No information has been submitted regarding impact upon trees, ecology nor achieving biodiversity net gain, however from site assessment the grazing land appears to be of little ecological or habitat value, and tree root areas could be avoided, or if suitably low value tree specimens are to be removed to facilitate development this could be mitigated through replacement planting. This would be assessed in greater detail at reserved matters stage, however the outline proposal is considered to be in accordance with Policies ENV1 and ENV2.

## **8.10 Land Contamination and Drainage**

- 8.10.1 Within the Eden Local Plan, Policy ENV8 requires adequate assessment and mitigation of suspected contaminated land to ensure unacceptable risks to human health and/or the environment are avoided, or remediated where necessary to ensure safe development.
- 8.10.2 Whilst agricultural land can become contaminated through agricultural activities and practices, and domestic use introduces sensitive receptors to this, such matters could be investigate at reserved matters stage, as long as assessment and any necessary mitigation is undertaken prior to occupation. No information has been submitted regarding foul drainage facilities, however this can be explored through the hierarchical approach at reserved matters stage, where mains connection should be sought in the

first instance, with a package treatment plant providing an alternative if mains connection is demonstrated to be impractical and unfeasible. The outline proposal is considered to cause no undue harm regarding these matters, and this proposal has a neutral impact with regard to contamination and drainage at this stage, in accordance with Policy ENV8.

## **9. New Homes Bonus**

- 9.1 The prospect of receiving a Bonus is, in principle, capable of being taken into account as a 'material consideration' in determining a planning application. Whether potential Bonus payments are in fact a material consideration in relation to a particular application will depend on whether those payments would be used in a way which is connected to the application and to the use and development of land. For example, potential Bonus payments could be a material consideration if they were to be used to mitigate impacts resulting from development. But if the use to which the payments are to be put is unclear or is for purposes unrelated to the development concerned a decision maker would not be entitled to take them into account when making a decision on a planning application. In this particular case, there are no plans to use the New Homes Bonus arising from this application in connection with this development.

## **10. Implications**

### **10.1 Legal Implications**

- 10.1.1 The following matters have been considered but no issues are judged to arise.

### **10.2 Equality and Diversity**

- 10.2.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

### **10.3 Environment**

- 10.3.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

### **10.4 Crime and Disorder**

- 10.4.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

### **10.5 Children**

- 10.5.1 Under the Children Act 2004, the Council has a duty to safeguard and promote the welfare of children in the exercise of any of its functions.

### **10.6 Human Rights**

- 10.6.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

## **11. Conclusion**

- 11.1 It is considered that the proposal is contrary with the Development Plan for the following reasons, which is not outweighed by material considerations:
- 11.2 In conclusion, the proposed development is contrary to the local plans locational strategy for development and avoidance of isolated homes through the NPPF.

Notwithstanding the unacceptable principle of the proposal, the application has failed to demonstrate that a safe access for the vehicular use of the site can be achieved.

- 11.3 In terms of landscape impacts, it is considered that the domestication of nearly an acre of land and the erection of a large two storey dwellinghouse in a prominent and elevation position would harm the rural landscape and character of the area, conflicting with the existing settlement form. This would result in a disproportionately large domestic curtilage and development immediately adjacent to agricultural land and outside of the nearby village, resulting in an incongruent encroachment into the rural landscape in a location separated and outside of any recognised village or settlement.
- 11.4 In regards to the self and custom build nature of the proposal, it is noted that the Council has fulfilled its statutory requirements in relation to the provision of such development. Whilst some weight can still reasonably be afforded to the self and custom build nature of the proposal, and that the provision of a single self-build dwellinghouse would deliver some economic and social benefits of housing provision and development, these would be modest for a single dwellinghouse. Overall, it is reasonable to conclude that the benefits that would be realised falls substantially short of outweighing the identified harm in the aforementioned reasons for refusal, and the conflict with multiple planning policies and the aims of the Local Plan as a whole. In this regard, the limited benefits of the scheme does not justify a departure from the Development Plan in this instance.
- 11.5 Therefore, the application is recommended for refusal.

Oliver Shimell  
Assistant Director Development

Checked by or on behalf of the Monitoring Officer	05.05.21
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**Background Papers:** Planning File 21/0073